

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRYAN FOUST,

Plaintiff,

v.

Case No. 2:22-cv-788 KRS/GBW

DANIEL GOBBLE,
NATURAL GAS SERVICES GROUP, INC., and
ST. PAUL FIRE AND MARINE INSURANCE COMPANY,

Defendants.

TRIAL SCHEDULING ORDER

THIS MATTER comes before the Court following a telephonic trial scheduling conference held on March 22, 2023. As reflected in the record, the Court hereby sets the following dates and deadlines:

A **Pretrial Conference** shall be held on **January 23, 2024 at 9:00 a.m.**, in the Picacho Courtroom of the United States Courthouse in Las Cruces. All attorneys participating in the trial must be present for the pretrial conference. The parties may, but need not, be present.

A **Jury Trial** will be held from **February 12-16, 2024**, in the Picacho Courtroom of the United States Courthouse in Las Cruces. Counsel are directed to submit a proposed consolidated final pretrial order as follows:

Plaintiffs to Defendants: **January 9, 2024;**

Defendants to the Court: **January 16, 2024.**

Counsel are further directed that the pretrial order shall provide that no witness, except rebuttal witnesses whose testimony cannot be anticipated, will be permitted to testify unless the name of the witness is furnished to the Court and opposing counsel no later than thirty (30) days prior to

the time set for trial. Any exceptions thereto must be upon order of the Court for good cause shown.

Motions in Limine: All motions in limine¹ are due by **December 14, 2023**. Any responses or objections are due by **December 28, 2023**.

Witness Lists: The parties shall file their witness lists by **January 2, 2024**. The lists must disclose witnesses that the parties “will call” as well as witnesses that they “may call” at trial. Any objections to a witness named by the opposing party must be filed by **January 9, 2024**.

Designations and Counter-Designations of Deposition Testimony: The parties shall file designations and counter-designations of deposition testimony that they intend to use at trial. The designations and counter-designations must state the pages and lines of the deposition to be used. To this end, Plaintiff will use a yellow marker and Defendants will use a blue marker. These requirements do not apply to cross-examination or rebuttal of a witness presented in person at trial. Designations must be filed by **January 2, 2024**. Counsel must **jointly submit one physical copy** of each deposition to my chambers by this due date and must highlight the parts of the depositions that are to be used. Any objections to testimony designated by the opposing party and/or any counter-designations must be filed by **January 9, 2024**. If the parties wish to make further designations in light of the designations and counter-designations, leave for additional designations must be requested from the Court **at the pretrial conference**.

Exhibits: The parties shall **jointly** file one list of stipulated exhibits and shall separately file lists of contested exhibits no later than **January 9, 2024**. They shall also **jointly** submit

¹ Motions challenging the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) are not motions in limine. *Daubert* motions shall be filed no later than the dispositive motions deadline.

physical copies of marked exhibits to my chambers by the next business day. The exhibits shall be divided into two notebooks. The first notebook shall include any and all exhibits that the parties stipulate to be admissible. These exhibits shall be labeled consecutively. The second notebook shall include any and all contested exhibits. These exhibits shall be labeled consecutively beginning with the next sequential number after the final stipulated exhibit designation. For instance, if there are fifty (50) stipulated exhibits, twenty (20) contested plaintiff's exhibits, and twenty (20) contested defendants' exhibits, the first notebook shall contain stipulated exhibits numbered 1 to 50. The second notebook shall contain plaintiffs' contested exhibits numbered 51 through 70 and defendants' contested exhibits numbered 71 through 90.

In order to allow sufficient time for a party to decide whether to contest the admission of an exhibit, each party must send a list of their proposed exhibits to the opposing party no later than **January 2, 2024**.

Statement of the Case: No later than **January 9, 2024**, the parties shall file a consolidated clear, concise statement of the case to be read by the Court to the jury at the beginning of trial. If Counsel are unable to agree to a consolidated statement of the case, they shall file separate statements of the case. The parties shall meet and confer about the statement of the case no later than **January 2, 2024**.

Jury Instructions: The parties shall meet and confer about proposed jury instructions no later than **January 2, 2024**. Plaintiff is responsible for filing a set of requested jury instructions to which all of the parties agree. Requested instructions upon which the parties cannot agree must be filed separately by the requesting party. There shall be only one instruction per page and each instruction shall include a citation to supporting authority at the bottom of the page. All

such filings are due **January 9, 2024**. On that same day, the parties shall also email a copy of the instructions in Word format, without citations, to sweazeaproposedtext@nmd.uscourts.gov. A party must file written objections to an opposing party's requested instructions no later than **January 16, 2024**.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kevin Sweazea". The signature is written in a cursive style with a horizontal line underneath it.

KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE